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Attorneys for Plaintiff JENS ERIK SORENSEN,
as Trustee of SORENSEN RESEARCH AND
DEVELOPMENT TRUST

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

JENS ERIK SORENSEN, as Trustee of)	Case No. 08 CV 304 BTM CAB
SORENSEN RESEARCH AND)	
DEVELOPMENT TRUST,)	REQUEST FOR JUDICIAL NOTICE
)	RE OPPOSITION TO MOTION TO
Plaintiff)	STAY THE LITIGATION PENDING
v.)	THE REEXAMINATIONS OF U.S.
)	PATENT NO. 4,935,184
METABO CORPORATION, a Delaware)	
Corporation; METABOWERKE GMBH,)	
a German Corporation; and DOES 1 –)	
100,)	
)	
Defendants.)	

1 PLAINTIFF Jen Erik Sorensen, as Trustee of Sorensen Research and
2 Development Trust (“SRDT”) respectfully requests the Court to take judicial notice
3 of the following documents in support of Plaintiff’s Opposition to Defendant’s
4 Motion to Stay:

- 5 1. *Sorensen v. Lexar Media, Inc.*, Case No. 08cv00095, in the Northern
6 District of California, Docket #27. Courtesy copy is attached hereto.
- 7 2. *Sorensen v. Kyocera International, Inc., et al.*, Case No. 08cv411,
8 Docket #12.
- 9 3. *Sorensen v. Central Purchasing, LLC, et al.*, Case No. 08cv309, Docket
10 #13;
- 11 4. *Sorensen v. Logitech, Inc., et al.*, Case No. 08cv308, Docket #15;
- 12 5. *Sorensen v. Sunbeam Products, Inc., et al.*, Case No. 08cv306, Docket
13 #24;
- 14 6. *Sorensen v. CTT Tools, Inc., et al.*, Case No. 08cv231, Docket #17;
- 15 7. *Sorensen v. Global Machinery Company, et al.*, Case No. 08cv233,
16 Docket #21;
- 17 8. *Sorensen v. Emissive Energy Corp., et al.*, Case No. 08cv234, Docket
18 #15;
- 19 9. *Sorensen v. Motorola, Inc., et al.*, Case No. 08cv0136, Docket #18.
- 20 10. *Sorensen v. Ryobi Technologies, Inc., et al.*, Case No. 08cv0070, Docket
21 #20.
- 22 11. *Sorensen v. Emerson Electric Co., et al*, Case No. 08cv0060, Docket
23 #35.
- 24 12. *Sorensen v. Energizer Holdings, Inc., et al*, Case No. 07cv2321, Docket
25 #28.
- 26 13. *Sorensen v. Giant International, Inc., et al*, Case No. 07cv2121, Docket
27 #22.
- 28 14. *Sorensen v. Esseplast (USA) NC, Inc., et al*, Case No. 07cv2277, Docket

1 #22.

2 15. *Sorensen v. Helen of Troy Texas Corporation, et al*, Case No.
3 07cv2278, Docket #19.

4 16. *Sorensen v. The Black & Decker Corporation, et al*, Case No.
5 06cv1572, Docket #191.

6 17. *Sorensen v. Star Asia*, Case No. 08cv307, Docket #16.

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8
9 DATED this Friday, June 06, 2008.

10 JENS ERIK SORENSEN, as Trustee of
11 SORENSEN RESEARCH AND DEVELOPMENT
12 TRUST, Plaintiff

13 /s/ Melody A. Kramer

14 Melody A. Kramer, Esq.
15 Attorney for Plaintiff
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Jens Erik Sorensen,

NO. C 08-00095 JW

Plaintiff,

**ORDER DENYING DEFENDANT'S
MOTION TO STAY**

v.

Lexar Media, Inc.,

Defendant.

Plaintiff Jens Erik Sorensen brings this action as trustee of Sorensen Research and Development Trust, alleging that Defendant Lexar Media, Inc.'s "Jump Drive" product infringes U.S. Patent No. 4,935,184 (the "'184 Patent"). The '184 Patent discloses, *inter alia*, a method for forming injection molded plastic. Before the Court is Defendant's Motion to Stay. (hereafter, "Motion," Docket Item No. 12.) The Court found the motion appropriate for submission without oral argument. See Civ. L.R. 7-1(b). Based on the papers submitted to date, the Court DENIES Defendant's Motion to Stay.

Defendant moves to stay pending the outcome of a reexamination of the '184 Patent on the grounds that a stay will conserve judicial resources and avoid prejudice to Defendant. (Motion at 3.) Plaintiff contends that a stay will result in undue delay in resolving the issues in this case. (Plaintiff's Opposition to Defendant's Motion to Stay at 5, Docket Item No. 18.)

A court has broad discretion to stay an action before it, pending resolution of other proceedings. Leyva v. Certified Grocers of California, Ltd., 593 F.2d 857, 863-64 (9th Cir. 1979). This authority includes the discretion to stay an action pending the outcome of reexamination

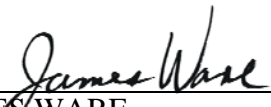
proceedings at the United States Patent and Trademark Office (“PTO”). Ethicon, Inc. v. Quigg, 849 F.2d 1422, 1426-27 (Fed. Cir. 1988). However, “[t]he court is not required to stay judicial resolution in view of the reexaminations.” Viskase Corp. v. American Nat. Can Co., 261 F.3d 1316, 1328 (Fed. Cir. 2001).

In this case, Defendant has not made a sufficient showing to warrant a stay. While the ‘184 Patent is in reexamination, the examiner at the PTO has not as of yet cancelled any claims or issued a final office action. (Declaration of Joseph H. Lee in Support of Defendant’s Motion to Stay, Ex. C, Docket Item No. 13.) A reexamination may take up to several years to run its course. (Id., Ex. F [PTO *Ex Parte* Reexamination Filing Data, December 31, 2007] at 2.) As of the 2007, the PTO determined that the average pendency of an *ex parte* reexamination is two years. (Id.) Appeals create potential for the process to take even longer. In that time, the Court could make substantial progress in interpreting the patent at issue and otherwise moving the action toward resolution.

Accordingly, the Court DENIES Defendant’s Motion to Stay at this time. The parties shall attend the case management conference currently set for **June 2, 2008 at 10 a.m.** to discuss a schedule for this case. Pursuant to the Patent Local Rules, the parties shall file a Joint Case Management Statement on or before **May 23, 2008**.

In light of this Order, the hearing on the motion presently scheduled for May 5, 2008 is VACATED.

Dated: April 30, 2008


 JAMES WARE
 United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 James Michael Kaler michael@kalerlaw.com
3 Jared Bobrow jared.bobrow@weil.com
4 Melody Ann Kramer mak@kramerlawip.com

5 **Dated: April 30, 2008**

Richard W. Wiekling, Clerk

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7 **By: /s/ JW Chambers**
8 **Elizabeth Garcia**
9 **Courtroom Deputy**
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